IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

Crl.MC.No. 2254 of 2007()

CC.321/2004 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVUR

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PETITIONER: ACCUSED:

SOPHY EDWIN, AGED 53,
W/O.GEORGE EDWIN, NADUVILAVEETTIL,
HOUSE NO.227/X1V, ELOOR GRAMA PANCHAYAT,
MANJUMMAL SOUTH, ERNAKULAM.

BY ADV. SRI.RAJIV NAMBISAN

RESPONDENTS: STATE AND COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUDHEESH KUMAR.K.K., S/O.KUMARAN,
KANATTUSSERY, PULLOTTU DESOM AND VILLAGE,
PULLOTTU POST, KODUNGALLOOR TALUK.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2254 of 2007

Dated this the 16th day of July 2007

O R D E R

The petitioner, a woman, faces indictment in a prosecution under Section 406 I.P.C. Cognizance has been taken on the basis of a final report submitted by the police, after investigation. The petitioner has appeared before the learned Magistrate. Charges have not been framed by the learned Magistrate, it is submitted.

2. The petitioner has come to this court now with the prayer that powers under Section 482 Cr.P.C may be invoked to quash the proceedings against the petitioner. What is the reason? The learned counsel for the petitioner submits that there is absolutely no justifiable reason to frame charges against the petitioner. The petitioner is absolutely innocent. Proceedings are initiated against her without any valid reason and justification. In these circumstances, powers under Section 482 Cr.P.C may be invoked to bring to premature termination the proceedings against the petitioner. This, in short, is the plea raised.

3. I have gone through the complaint as also the final report submitted by the police. I am certainly of the opinion that it is for the petitioner to claim discharge before the learned Magistrate under Section 239/240 Cr.P.C. The learned Magistrate must hear the petitioner on the question of framing charges and take appropriate decisions. Of course, this court has jurisdictional competence to bring to premature termination a prosecution initiated against the petitioner by invoking the extraordinary inherent jurisdiction. But such jurisdiction is not to be invoked as a matter of course. Compelling and satisfactory reasons must be shown to exist to resort to the powers under Section 482 Cr.P.C. Under the code of criminal procedure, a person, who has a grievance that proceedings has been initiated against him without justification, can certainly move the court for premature termination of the proceedings at the stage of Section 239/240 Cr.P.C. I am unable to agree that any such compelling reasons exist to permit the petitioner not to follow the ordinary course and to entertain this application under Section 482 Cr.P.C.

4. The learned counsel for the petitioner submits that the petitioner has already entered appearance before the

learned Magistrate and has been enlarged on bail. It is submitted that if unnecessary insistence were made on the personal presence of the petitioner on all dates of posting, it will cause great hardship and loss to the petitioner. I expect the learned Magistrate not not insist on such personal appearance of the petitioner for hearing on the question of charge/discharge at the stage of Section 239/240 Cr.P.C.

5. In the result, this petition is dismissed. It is directed that the petitioners claim for premature termination of proceedings against her must be considered by the learned Magistrate at the stage of Section 239/240 Cr.P.C and appropriate orders passed expeditiously. Personal presence of the petitioner need not be insisted until a decision is taken on the question of framing charge.

6. With the above observations, this petition is dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007